

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>RANDAL B. MCCOY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 1:22-cv-1162-LCB-GMB</b>
	)	
<b>CALHOUN COUNTY JAIL</b>	)	
<b>MEDICAL ADMINISTRATION,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER OF DISMISSAL**

On January 19, 2023, the Magistrate Judge entered a report recommending that the Court dismiss this action without prejudice for Plaintiff Randal B. McCoy's failure to prosecute his claims. (Doc. 12.) The Magistrate Judge notified McCoy that he had the right to file specific written objections within 14 days, and McCoy filed an objection. (Doc. 13.)


McCoy's objection offers an excuse for his failure to pay his initial partial filing fee of \$19.90 but does not cure the deficiency. The Court first ordered McCoy to pay his partial filing on November 8, 2022. (Doc. 9.) He did not do so within the 30 days allotted to him, so the Court gave him 14 more days on December 23, 2022. (Doc. 11.) McCoy did not comply with or otherwise respond to this order, so the Magistrate Judge entered his report recommending the dismissal of this action for McCoy's failure to prosecute his claims. (Doc. 12.) McCoy's objection to the report

claims that his mother mailed a money order for his fee “back on Jan. 6, 2023 . . . and has the receipt of said money order in her possession.” (Doc. 13 at 1.) Even though McCoy alleges that his mother has a copy of the receipt, he has not requested for her to provide it to the Court or taken any other discernible action to pay his filing fee in the last three months. (Doc. 13 at 1.) As the Magistrate Judge concluded, McCoy’s failure to pay his filing fee and lack of diligence in prosecuting his claims require the dismissal of this action.

Having carefully reviewed and considered *de novo* all the materials in the docket, including the report and recommendation, the Court **ADOPTS** the magistrate judge’s report and **ACCEPTS** his recommendation. Therefore, the Court **DISMISSES** this action **WITHOUT PREJUDICE** for the plaintiff’s failure to prosecute his claims.

For information regarding the cost of appeal, see the attached notice.

**DONE** and **ORDERED** February 9, 2023.



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**LILES C. BURKE**  
UNITED STATES DISTRICT JUDGE

**United States Court of Appeals**

Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

In Replying Give Number  
of Case and Names of Parties

**NOTICE TO PRISONERS CONCERNING CIVIL APPEALS**

The Prison Litigation Reform Act of 1995 (effective April 26, 1996) now **REQUIRES** that all prisoners pay the Court's \$500 docket fee plus \$5 filing fee (for a total of \$505) when appealing any civil judgment.

If you wish to appeal in a civil case that Act now **requires** that upon filing a notice of appeal you *either*:

- (1) Pay the total \$505 fee to the clerk of the district court from which this case arose; *or*
- (2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal.

If you proceed with option (2) above, the Act requires that the district court order you to pay an *initial partial fee* of at least 20% of the **greater** of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$505 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$505 fee is paid. (If your prison account statement shows that you cannot pay even the required *initial partial fee*, your appeal may nevertheless proceed, **BUT THE TOTAL \$505 FEE WILL BE ASSESSED AGAINST AND WILL BE DEDUCTED FROM FUTURE DEPOSITS TO YOUR PRISON ACCOUNT.**)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$505 fee is collected, even if an appeal is unsuccessful.

David J. Smith  
Clerk of Court

PLRA Notice